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FAX TRANSMISSION

TOTAL NUMBER OF

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Date: January 7, 2004

20 Jan 2004

(IPSELF)

Attn: MRS. YAZICI

Re: Chinese Patent Application for Invention No. 99109521.9

In the name of BASELL POLYOLEFINE GMBH.

Title: GAS-PHASE FLUIDIZED-BED REACTOR

Your Ref: O.Z.0775/00004/Me (NH-LC-009)

Our Ref: CPCH9961469

Inst 22.03.04

CONFIRMATION

Dear Mrs. Yazici,

Enclosed please find a first Office Action concerning the captioned application and an English translation thereof together with a copy of each of Articles 22 and 33 of the Chinese Patent Law and Rules 19 and 20 of the Implementing Regulations thereof, as well as relevant document 1, EP0825204A, (date of publication: February 25, 1998) and relevant document 2, US3829983A (date of publication: August 20, 1974). Our comment(s) and or suggestion(s) concerned is/are as follows:

1. With respect to the inventiveness problem raised in items 1-3 of the Office Action concerning independent claim 1, dependent claims 2-7, independent claim 8 and dependent claim 9, for solving the problem, first of all, the inventiveness problem concerning independent claim 1 should firstly be solved. So please make strong and persuasive argument(s) which include(s) powerful evidence to show that the reactor claimed in claim 1 is different from and superior to those of the relevant documents 1 and 2. It shall be advantageous to the argument(s) if the evidence includes test data for testifying the effect(s) possessed by the reactor claimed in claim 1 and includes the comparison test data for testifying that the effect(s) possessed by the reactor claimed in claim 1 is (are) superior to the effect(s) possessed by that (those) of the relevant document 1.

Further, if necessary, some amendment(s) which is (are) in favor of the inventiveness possessed by the reactor claimed in claim 1, can be made.

As to the inventiveness problem concerning the dependent claims 2-7, independent claim 8 and dependent claim 9, on the premise that claim 1 has inventiveness, the

arguments concerning these claims having inventiveness can be made on the basis of independent claim 1 having inventiveness.

2. With respect to the problem(s) raised in items 4 and 5 of the Office Action concerning claims 1, 8 and 9, for solving the problem please make amendment(s) and/or deletion(s) for overcoming the defect(s) pointed out by the Examiner. Otherwise, applicant's convincing argument(s) and/or explanation(s) concerned should be expounded.

3. With respect to the problem(s) raised in item 6 of the Office Action concerning the reference sign(s) in the description and in the drawing, please make amendment(s) to the reference sign(s) in the description and/or in the drawing to make the reference sign(s) in the description and the reference sign(s) in the drawing to be consistent.

4. Please note that if any substantial amendment(s), not the amendment(s) in the form, is (are) made in the application text including claim(s) and description, the amendment(s) should have been set forth in the application text including the description and/or claim(s) initially filed under Article 33 of the Chinese Patent Law and the related support in the application text initially filed should be pointed out.

5. According to the patent practice prevailing in China, please note that the response to the Office Action should be made directed to each point of the Examiner's comments. Otherwise, the application shall be rejected.

The instant response to the Office Action concerned should be filed on or before March 22, 2004. So we shall appreciate it if you can let us have your related comments and instructions directed to each point of the Examiner's comments stated in the Office Action not later than March 15, 2004. *del not.*

Further, if by any chance you consider that the time is not enough for preparing the response, a request for one- or two-month extension of the due date for responding to the Office Action can be filed under your instructions. However, please be informed that for the due date for responding to one Office Action, only one time extension, if the extension is needed by the applicant, and no further time extension of the due date can be allowed according to current patent practice in China. As to the fee charged, the official fee charged is RMB \$ 300 per month and the agent fee charged is USD 80 per one time extension.

If you have any questions please feel free to contact us and direct them to my attention.

Please kindly acknowledge safe receipt of this letter together with the English translations of the text of the Office Action attached by return facsimile of signing page 1 of this letter.

Sincerely yours,



Kau-Cheong Yeung (Mr.)
Chemical Department
China Patent Agent (H.K.) Ltd.
KCY/

(Please note: this letter and the English translation of the text portion of the Office Action are sent to you via facsimile and then the original of this letter, the English translation of the Office Action and the remaining materials will be sent to you via airmail)

CPCH9961469

Patent Office of the People's Republic of China

Address: Receiving Section of the Chinese Patent Office, No. 6 Tucheng Road West, Haidian District, Beijing. Postal code: 100086

Applicant	BASELL POLYOLEFINE GMBH			Seal of Examiner	Date of Issue November 7, 2003
Agent	China Patent Agent (H.K.) Ltd.				
Patent Application No.	99109521.9	Application Date	June 9, 1999	Exam Dept.	
Title of Invention	GAS-PHASE FLUIDIZED-BED REACTOR				

First Office Action

1. ☒ Pursuant to the provision of Article 35 (1) of the Chinese Patent Law, the examiner made an examination as to substance of the captioned patent application for invention upon the request for substantive examination filed by the applicant on _____.

☐ Pursuant to the provision of Article 35 (2) of the Chinese Patent Law, the Chinese Patent Office has decided to conduct on its own initiative an examination as to substance of the captioned patent application for invention.

2. ☒ The applicant requests taking the filing date, Jun. 9, 1998, at the DE Patent Office, the filing date, _____, at the _____ Patent Office, the filing date, _____, at the _____ Patent Office as the priority date of the present application.

☒ A copy of the first filed patent application certified by the receiving organ of the initial country of filing has been submitted by the applicant.

☐ A copy of the first filed patent application certified by the receiving organ of the initial country of filing has not been submitted by the applicant. Pursuant to the provision of Article 30 of the Chinese Patent Law, no priority right shall be deemed to have been claimed.

3. ☐ The applicant filed amended application document(s) on _____ and _____.

☐ Examination has confirmed that _____ filed on _____ cannot be accepted, _____ filed on _____ cannot be accepted.

as the above amendment(s) ☐ is/are not in conformity with the provision of Article 33 of the Chinese Patent Law.

☐ is/are not in conformity with the provision of Rule 51 of the Implementing Regulations of the Chinese Patent Law.

☐ For the specific reason that the amendment(s) cannot be accepted, see the text of

the Office Action.

4. ☐ The examination is conducted in the light of the original application document(s)
☒ The examination is conducted in the light of the following application document(s):
 in the original application documents submitted on the filing date: Claim(s) page
 1 _____, page(s) 1-6 _____ of the description, Figure(s) _____ of
 the drawing(s); Claim(s) _____, page(s) _____ of the description, Figure(s)
 page 1 _____ submitted on Aug. 12, 1999 _____; Claim(s) _____,
 page(s) _____ of the description, Figure(s) _____ submitted on _____
☒ Abstract of the description in the original application documents submitted on the
 filing date.
5. ☐ The present Office Action has been prepared without a search having been
 conducted.
☒ The present Office Action has been prepared with a search having been
 conducted.
☒ The following reference document(s) is/are cited in this Office Action (its/their serial
 number(s) will, continue to be used throughout the examination procedure):

No.	Number or Title of Document	Date of Publication (or filing date of interfering application)
1	EP 0825204A	(Date) Feb. 25, 1998
2	US 3829983A	(Date) Aug. 20, 1974
3		(Date)
4		
5		
6		

6. The concluding comments of the examiner are:

- ☐ On the description:
- ☐ The content of the application comes within the scope where no patent right is granted as provided in Article 5 of the Patent Law.
 - ☐ The description is not in conformity with the provision of Article 26(3) of the Patent Law.
 - ☐ The drafting of the description is not in conformity with the provision of Rule 18 of the Implementing Regulations.
- ☒ On the claims:
- ☐ Claim comes within the scope where no patent right is granted as provided in Article 25 of the Patent Law.
 - ☐ Claim is not in conformity with the definition of invention in Rule 2(1) of the Implementing Regulations.
 - ☐ Claim _____ does not possess novelty as provided in Article 22(2) of the Patent Law.
 - ☒ Claims 1-9 _____ does not possess inventiveness as provided in Article 22(3) of the Patent Law.
 - ☐ Claim _____ does not possess practical applicability as provided in Article 22(4) of

the Patent Law.

- ☐ Claim _____ is not in conformity with the provision of Article 26(4) of the Patent Law.
- ☐ Claim _____ is not in conformity with the provision of Article 31(1) of the Patent Law.
- ☒ Claims 1, 8, 9 is not in conformity with the provisions of Rules 20-23 of the Implementing Regulations.
- ☐ Claim _____ is not in conformity with the provision of Article 9 of the Patent Law.
- ☐ Claim _____ is not in conformity of the provision of Rule 12(1) of the Implementing Regulations.

For specific analyses of the above concluding comments, see the text of this Office Action.

7. In view of the above concluding comments, the examiner holds that:

- ☐ The applicant should amend the application document in accordance with the requirements raised in the text of this Office Action. The amended document(s) should be submitted in duplicate and should conform to the provisions of Article 33 of the Patent Law and Rule 51 of the Implementing Regulations of the Chinese Patent Law.
- ☐ The applicant should expound in his Observations the reasons why the captioned patent application is patentable and amend the places not conforming to regulations as pointed out in the text of the Office Action, otherwise it would be impossible for the patent right to be granted.
- ☒ The captioned patent application contains no substantive content for which the patent right may be granted, thus if the applicant has not advanced his reasons or has not done so adequately, the application will be rejected.

8. The applicant should pay attention to the following matters:

- (1) In accordance with the provision of Article 37 of the Patent Law, the applicant should submit his/its Observations within four months from the date of receipt of this Office Action; if, without any justified reason, the time limit for making response is not met, the application will be deemed to have been withdrawn.
- (2) The amendments made by the applicant to his application should conform to the provision of Article 33 of the Patent Law, the amended text should be in duplicate and the format should conform to the relevant provisions of the Guidelines for Examination.
- (3) The applicant's Observations or amended text should be mailed or presented to the Receiving Section of the Chinese Patent Office. Document not mailed or presented to the Acceptance Section have no legal force.
- (4) Without making an appointment, the applicant and/or agent may not come to the Chinese Patent Office to hold an interview with the examiner.

9. This Office Action consists of the text portion totalling 2 page(s) and of the following annex(es):

- ☐ _____ duplicate copies of the reference document(s) cited totalling _____ page(s).
- ☐

CPCH9961469

TEXT OF FIRST OFFICE ACTION

1. Claim 1 claims a fluidized-bed reactor. Reference document 1 discloses an apparatus used for polymerization process (see its description, column 12, lines 24-47, and Fig. 1), comprising a reactor body 1, a velocity reduction zone 4 adjoining the upper part of the reactor body 1, recycle line 6, compressor 9, heat exchangers 8 and 110, and a fluidisation grid 2 located in the base of the reactor body. In comparison with this apparatus, the reactor of claim 1 differs only in that the gas distribution plate has gas flow orifices whose outlet sides are widened conically.

But the aforesaid distinguishing feature has been disclosed in reference document 2 (see Fig. 3, and claims). In order to reduce deposit of the polymer on the distributor plate and to achieve uniform distribution of gas, persons skilled in the art need not do inventive labour to apply the grid plate of reference document 2 into the apparatus of reference document 1. Thus, the technical solution claimed in claim 1 does not conform to Article 22(3) of the Chinese Patent Law.

2. Claims 2-7 further define the gas distributor plate. But such definition does not produce unexpected technical effect. In order to reduce deposit of the polymer on the distributor plate and to achieve uniform distribution of gas, persons skilled in the art can, on the basis of reference documents 1 and 2, readily come to the technical solutions of said claims through conventional tests. Thus, claims 2-7 do not conform to Article 22(3) of the Chinese Patent Law.

3. Claims 8 and 9 claim a copolymerization process. But this process has been disclosed by reference document 1 (see its description, column 4, line 25 – column 5, line 18). Thus, claims 8 and 9 do not conform to Article 22(3) of the Chinese Patent Law.

4. The wording “if desired” in claim 1 makes the protection scope indefinite, so that claim 1 does not conform to Rule 20(1) of the

Implementing Regulations of the Chinese Patent Law.

5. The category of claims 8 and 9 is unclear, so that these claims do not conform to Rule 20(1) of the Implementing Regulations of the Chinese Patent Law. As can be seen from the description, these claims are actually use claims, rather than process claims.

6. The reference sign not mentioned in the description cannot appear in the attached drawing, whereas the reference sign not appearing in the attached drawing cannot be mentioned in the description. But the description and the attached drawing violate the aforesaid provisions, and hence, do not conform to Rule 19(3) of the Implementing Regulations of the Chinese Patent Law.

For the aforesaid reasons, the independent claims and dependent claims of the present application do not have inventiveness. Moreover, the description does not have any other patentable substantive content. Hence, even if the applicant recombines the claims and/or further defines them on the basis of the content in the description, the present application still will not have the prospect of being granted the patent right. If the applicant fails to give adequate reasons to show that the present application has inventiveness within the time limit for making the response as prescribed in this Office Action, the present application shall be rejected.

中华人民共和国国家知识产权局

邮政编码:

香港湾仔港湾道 23 号鹰君中心 22 字楼

中国专利代理(香港)有限公司

杨九品

(无审查业务专用章
不具各法律效力)

申请号: 99109521.9

部门及通知书类型: 4--D

发文日期:

申请人:

巴塞尔聚烯烃股份有限公司

发明名称:

气相流化床反应器

第一次审查意见通知书

9961469

1. ☒ 申请人提出了实质请求, 根据专利法第 35 条第 1 款的规定, 审查员对上述发明专利申请进行实质审查。

☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。

2. ☒ 申请人要求以其在:

DE	专利局的申请日	1998 年 6 月 9 日	为优先权日。
	专利局的申请日		为优先权日。
	专利局的申请日		为优先权日。
	专利局的申请日		为优先权日。
	专利局的申请日		为优先权日。

九

☒ 申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。

☐ 申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本, 根据专利法第 30 条的规定视为未提出优先权要求。

3. ☐ 申请人于____年__月__日和____年__月__日提交了修改文件。

经审查, 其中: ____年__月__日提交的____不能被接受; ____年__月__日提交的____不能被接受;

因为上述修改 ☐ 不符合专利法第 33 条的规定。 ☐ 不符合实施细则第 51 条的规定。

修改不能被接受的具体理由见通知书正文部分。

4. ☐ 审查是针对原始申请文件进行的。

☒ 审查是针对下述申请文件进行的:

说明书

申请日提交的原始申请文件的第 1-6 页:

____年__月__日提交的第____页: ____年__月__日提交的第____页:

____年__月__日提交的第____页: ____年__月__日提交的第____页:

权利要求

申请日提交的原始申请文件的第 1 页:

____年__月__日提交的第____页: ____年__月__日提交的第____页:

____年__月__日提交的第____页: ____年__月__日提交的第____页:

附图

申请日提交的原始申请文件的第____页:

1999 年 8 月 12 日提交的第 1 页: ____年__月__日提交的第____页:

____年__月__日提交的第____页: ____年__月__日提交的第____页:

说明书摘要

☒ 申请日提交的:☐ ____年__月__日提交的:

摘要附图

☐ 申请日提交的:☐ ____年__月__日提交的:

22 MAR 2004

5. ☐ 本通知书是在未进行检索的情况下作出的。

☒ 本通知书是在进行了检索的情况下作出的。

☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):

编号	文件号或名称	公开日期 (或抵触申请的申请日)
1	EP0825204A	1998年2月25日
2	US3829983A	1974年8月20日
3		年 月 日
4		年 月 日

6. 审查的结论性意见:

☐ 关于说明书:

☐ 申请的内容属于专利法第5条规定的不授予专利权的范围。

☐ 说明书不符合专利法第26条第3款的规定。

☐ 说明书的撰写不符合实施细则第18条的规定。

☒ 关于权利要求书:

☐ 权利要求____不具备专利法第22条第2款规定的新颖性。

☒ 权利要求1-9不具备专利法第22条第3款规定的创造性。

☐ 权利要求____不具备专利法第22条第4款规定的实用性。

☐ 权利要求____属于专利法第25条规定的不授予专利权的范围。

☐ 权利要求____不符合专利法第26条第4款的规定。

☐ 权利要求____不符合专利法第31条第1款的规定。

☐ 权利要求____不符合实施细则第2条第1款关于发明的定义。

☐ 权利要求____不符合实施细则第13条第1款的规定。

☒ 权利要求8,9不符合实施细则第20条至第23条的规定。

☐

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

☐ 申请人应依照通知书正文部分提出的要求, 对申请文件进行修改。

☐ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。

☒ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其中请将被驳回。

☐

8. 申请人应注意下述事项:

(1) 根据专利法第37条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。

(2) 申请人对其申请的修改应符合专利法第33条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。

(3) 申请人的意见陈述书和/或修改文本应邮寄或递交给国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。

(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

9. 本通知书正文部分共有2页, 并附有下列附件:

☐ 引用的对比文件的复印件共____份____页。

☐

第一次审查意见通知书正文

1. 权利要求 1 请求保护一种流化床反应器, 对比文件 1 公开了一种用于聚合工艺的反应装置 (见说明书第 12 栏 24-47 行、图 1), 该装置由反应器本体 1、与反应器本体 1 上部相连的减速区 4、循环管路 6、压缩机 9、热交换器 8 和 10、以及位于反应器本体底部的流化格栅 2 组成。该装置与权利要求 1 的反应器相比, 区别仅仅在于: 气体分布板通孔的出口一侧为扩大的锥形。

而上述区别特征在对比文件 2 中已经公开 (见图 3、权利要求书), 所属领域的技术人员为了减少聚合物在分布板上淀积和均匀分布气体的目的, 将对比文件 2 中的多孔板应用到对比文件 1 的装置中并不需要付出创造性的劳动, 权利要求 1 请求保护的技术方案不符合专利法第 22 条第 3 款的规定。

2. 权利要求 2-7 对气体分布板作了进一步的限定, 但上述限定并没有取得预料不到的技术效果, 所属领域的技术人员在对比文件 1 和 2 的基础上, 为了达到减少聚合物在分布板上淀积和均匀分布气体的目的, 通过常规实验即可得出上述权利要求的技术方案, 权利要求 2-7 不符合专利法第 22 条第 3 款的规定。

3. 权利要求 8、9 请求保护一种共聚的方法, 但上述方法已被对比文件 1 所公开 (见说明书第 4 栏 25 行-第 5 栏 18 行), 上述权利要求不符合专利法第 22 条第 3 款的规定。

4. 权利要求 1 中出现保护范围不确定的用语“如果需要的话”, 不符合专利法实施细则第 20 条第 1 款的规定。

5. 权利要求 8、9 的类型不清楚, 不符合专利法实施细则第 20 条第 1 款的规定。由说明书的记载可知, 上述权利要求实际是用途权利要求, 而不是方法权利要求。

6. 说明书中未提及的附图标记不得在附图中出现, 附图中未出现的附图标记不得在说明书中提及。说明书及附图中出现的不符合上述规定的缺陷不符合

申请号: 991095219

第一次审查意见通知书正文

2

专利法实施细则第 19 条第 3 款的规定。

基于上述理由, 本申请的独立权利要求以及从属权利要求都不具备创造性, 同时说明书中也没有记载其他任何可以授予专利权的实质性内容, 因而即使申请人对权利要求进行重新组合和 / 或根据说明书记载的内容作进一步的限定, 本申请也不具备被授予专利权的前景。如果申请人不能在本通知书规定的答复期限内提出表明本申请具有创造性的充分理由, 本申请将被驳回。